

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Barbara Beerhalter	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Darrel L. Peterson	Commissioner

In the Matter of the Request by Mrs. Robert Shelito to Receive Electric Service from Minnesota Power Company Instead of Crow Wing Cooperative Power and Light Company

ISSUE DATE: March 23, 1988

DOCKET NO. E-015, E-109/SA-87-530 (E49-02)

ORDER REJECTING COMPLAINT

PROCEDURAL HISTORY

On August 3, 1987 Mrs. Robert Shelito filed a Complaint requesting that the Commission grant her the right to receive electric service from Minnesota Power Company (Minnesota Power) instead of from her current utility, Crow Wing Cooperative Power and Light Company (Crow Wing). Crow Wing is the utility assigned to serve her home under the Assigned Service Area statute, Minn. Stat. §§ 216B.39 et seq (1986), but her home is in a joint service area. Many of her neighbors receive service from Minnesota Power.

Mrs. Shelito stated that her request should be granted because she and her husband are retired, are on fixed incomes, and have medical disabilities which could be alleviated in part by air conditioning. She stated that they could use air conditioning more frequently if they could purchase Minnesota Power's lower priced electricity. Crow Wing has refused her request to waive its right to serve her home and to allow Minnesota Power to provide service.

The Department of Public Service (DPS) investigated the complaint and recommended denial.

FINDINGS AND CONCLUSIONS

Factual and Statutory Background

In 1974 the legislature directed that the state be divided into geographical areas, called assigned service areas, in which electric utilities would have exclusive service rights. The reasons for establishing assigned service areas were to encourage the development of coordinated statewide electric service, to avoid unnecessary duplication of electric facilities, and to promote the provision

of economical, efficient, and adequate electric service throughout the state. Minn. Stat. § 216B.37 (1986). The Commission was to set the boundaries of these assigned service areas, after notice and hearing. Minn. Stat. § 216B.39, subd. 2 (1986).

The assigned service area to which Mrs. Shelito seeks an exception was established in 1975 in contested case proceedings under the docket number USA-4. In that case the Commission established assigned service areas for Crow Wing and Minnesota Power, including four "joint service areas." In these joint service areas existing customers were to continue receiving service from their current utility, and new customers were to be served by the utility having the nearest electric line. Mrs. Shelito's home is in one of the joint service areas and was receiving service from Crow Wing when Mr. and Mrs. Shelito purchased the home in 1987.

Mrs. Shelito contends that she is a "new customer" under the terms of the Order in USA-4 and that she is therefore entitled to choose which utility will serve her home. In the alternative, she argues that the Commission should grant an exception to the assigned service area boundary in her case on grounds of hardship.

Statement of the Issues

The issues before the Commission are whether Mrs. Shelito is a "new customer" under the terms of the USA-4 Order, whether "new customer" status would affect her utility service, and whether relief should be granted on these or other grounds.

Findings of the Commission

The Commission concludes, with some reluctance, that it cannot grant the relief Mrs. Shelito seeks. In the context of the USA-4 Order, the term "new customer" clearly refers to a customer at a site which has not previously received service. Any other reading would be inconsistent with the legislative purpose and express Commission goal of avoiding duplication of facilities. Since Mrs. Shelito is not a new customer within the meaning of the Order, service should be provided by the same utility which has provided service to her home in the past.

Furthermore, even if "new customer" were interpreted to mean a person applying for initial service at a new location, Crow Wing would be the appropriate utility to provide service. The Order provides that new customers should receive service from the utility with the nearest electric line. In Mrs. Shelito's case that would be Crow Wing, which has an electric line connected to her house.

The only remaining question is whether the Commission can or should make an exception to the assigned service area boundary lines to accommodate the special circumstances in this case. The Commission has concluded that it cannot. The statute is clear on its face and requires that assigned service area boundaries be strictly observed:

Except as provided in sections 216B.42 and 216B.421, each electric utility shall have the exclusive right to provide electric service at retail to each and every present and future customer in its assigned service area and no electric utility shall render or extend electric service at retail within the assigned service area of another electric utility unless the electric utility consents thereto in writing; provided that any electric utility may extend its facilities through the assigned service area of another electric utility if the extension is necessary to facilitate the electric utility connecting its facilities or customers within its own assigned service area.

Minn. Stat. § 216B.40 (1986).

The Commission could, after notice and hearing, conduct a full scale examination of the assigned service areas of these two utilities in light of current conditions and make any boundary changes found necessary and reasonable. Minn. Stat. §§ 216B.39, subd. 3 (1986). The criteria for evaluating potential changes, however, would still be the statutory goals of encouraging the development of coordinated statewide electric service, avoiding unnecessary duplication of facilities, and promoting economical, efficient, and adequate electric service throughout the state.

This Complaint focused on individual hardship and did not allege such concerns. The DPS, which investigated the complaint, identified no facts or issues justifying full scale examination of these two assigned service areas. The Commission therefore declines to re-evaluate the service areas established in the USA-4 case.

ORDER

1. The Complaint filed by Mrs. Robert Shelito is hereby rejected.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Mary Ellen Hennen
Executive Secretary

(S E A L)